

---

SENATE BILL 6286

---

State of Washington 57th Legislature

2002 Regular Session

By Senators Long and Hargrove

Read first time 01/14/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the time permitted for review by the  
2 indeterminate sentence review board of sex offenders who are sentenced  
3 to short sentences under RCW 9.94A.712; and amending RCW 9.95.420 and  
4 9.95.011.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9.95.420 and 2001 2nd sp.s. c 12 s 306 are each  
7 amended to read as follows:

8 (1)(a) Except as provided in (c) of this subsection, before the  
9 expiration of the minimum term, as part of the end of sentence review  
10 process under RCW 72.09.340, 72.09.345, and where appropriate,  
11 72.09.370, the department shall conduct, and the offender shall  
12 participate in, an examination of the offender, incorporating  
13 methodologies that are recognized by experts in the prediction of  
14 sexual dangerousness, and including a prediction of the probability  
15 that the offender will engage in sex offenses if released.

16 (b) The board may contract for an additional, independent  
17 examination, subject to the standards in this section.

18 (c) If at the time the sentence is imposed by the superior court  
19 the offender's minimum term has expired or will expire within ninety

1 days of the sentencing hearing, the department shall conduct, within  
2 sixty days of the offender's arrival at a department of corrections  
3 facility, and the offender shall participate in, an examination of the  
4 offender, incorporating methodologies that are recognized by experts in  
5 the prediction of sexual dangerousness, and including a prediction of  
6 the probability that the offender will engage in sex offenses if  
7 released.

8 (2) The board shall impose the conditions and instructions provided  
9 for in RCW 9.94A.720. The board shall consider the department's  
10 recommendations and may impose conditions in addition to those  
11 recommended by the department. The board may impose or modify  
12 conditions of community custody following notice to the offender.

13 (3)(a) Except as provided in (b) of this subsection, no later than  
14 ninety days before expiration of the minimum term, but after the board  
15 receives the results from the end of sentence review process and the  
16 recommendations for additional or modified conditions of community  
17 custody from the department, the board shall conduct a hearing to  
18 determine whether it is more likely than not that the offender will  
19 engage in sex offenses if released on conditions to be set by the  
20 board. The board may consider an offender's failure to participate in  
21 an evaluation under subsection (1) of this section in determining  
22 whether to release the offender. The board shall order the offender  
23 released, under such affirmative and other conditions as the board  
24 determines appropriate, unless the board determines by a preponderance  
25 of the evidence that, despite such conditions, it is more likely than  
26 not that the offender will commit sex offenses if released. If the  
27 board does not order the offender released, the board shall establish  
28 a new minimum term, not to exceed an additional two years.

29 (b) If at the time the offender's minimum term has expired or will  
30 expire within ninety days of the offender's arrival at a department of  
31 correction's facility, then no later than ninety days after the  
32 offender's arrival at a department of corrections facility, but after  
33 the board receives the results from the end of sentence review process  
34 and the recommendations for additional or modified conditions of  
35 community custody from the department, the board shall conduct a  
36 hearing to determine whether it is more likely than not that the  
37 offender will engage in sex offenses if released on conditions to be  
38 set by the board. The board may consider an offender's failure to  
39 participate in an evaluation under subsection (1) of this section in

1 determining whether to release the offender. The board shall order the  
2 offender released, under such affirmative and other conditions as the  
3 board determines appropriate, unless the board determines by a  
4 preponderance of the evidence that, despite such conditions, it is more  
5 likely than not that the offender will commit sex offenses if released.  
6 If the board does not order the offender released, the board shall  
7 establish a new minimum term, not to exceed an additional two years.

8 **Sec. 2.** RCW 9.95.011 and 2001 2nd sp.s. c 12 s 320 are each  
9 amended to read as follows:

10 (1) When the court commits a convicted person to the department of  
11 corrections on or after July 1, 1986, for an offense committed before  
12 July 1, 1984, the court shall, at the time of sentencing or revocation  
13 of probation, fix the minimum term. The term so fixed shall not exceed  
14 the maximum sentence provided by law for the offense of which the  
15 person is convicted.

16 The court shall attempt to set the minimum term reasonably  
17 consistent with the purposes, standards, and sentencing ranges adopted  
18 under RCW 9.94A.850, but the court is subject to the same limitations  
19 as those placed on the board under RCW 9.92.090, 9.95.040 (1) through  
20 (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The  
21 court's minimum term decision is subject to review to the same extent  
22 as a minimum term decision by the parole board before July 1, 1986.

23 Thereafter, the expiration of the minimum term set by the court  
24 minus any time credits earned under RCW 9.95.070 and 9.95.110  
25 constitutes the parole eligibility review date, at which time the board  
26 may consider the convicted person for parole under RCW 9.95.100 and  
27 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the  
28 board's authority to reduce or increase the minimum term, once set by  
29 the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080,  
30 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

31 (2)(a) Except as provided in (b) of this subsection, not less than  
32 ninety days prior to the expiration of the minimum term of a person  
33 sentenced under RCW 9.94A.712, for a sex offense committed on or after  
34 ((July)) September 1, 2001, less any time credits permitted by statute,  
35 the board shall review the person for conditional release to community  
36 custody as provided in RCW 9.95.420. If the board does not release the  
37 person, it shall set a new minimum term not to exceed an additional two

1 years. The board shall review the person again not less than ninety  
2 days prior to the expiration of the new minimum term.

3 (b) If at the time a person sentenced under RCW 9.94A.712 for a sex  
4 offense committed on or after September 1, 2001, arrives at a  
5 department of corrections facility, the offender's minimum term has  
6 expired or will expire within ninety days of the offender's arrival,  
7 then no later than ninety days after the offender's arrival at a  
8 department of corrections facility, but after the board receives the  
9 results from the end of sentence review process and the recommendations  
10 for additional or modified conditions of community custody from the  
11 department, the board shall review the person for conditional release  
12 to community custody as provided in RCW 9.95.420. If the board does  
13 not release the person, it shall set a new minimum term not to exceed  
14 an additional two years. The board shall review the person again not  
15 less than ninety days prior to the expiration of the new minimum term.

--- END ---